

REMARKS/ARGUMENTS

I. Status of the claims

Claims 1, 5, 11, 14, and 32 are amended and claims 2, 6-10, 18-31 are canceled. Thus, claims 1, 3-5, 11-17, and 32-40 are pending with entry of the amendment. Claims 7-10 and 18-31 were previously withdrawn by the Examiner and the claims are canceled only for that reason. Applicants thank the Examiner for examining claim groups I, IV and VII together in this application.

II. Support for the amendments

Support for the amendments can be found throughout the specification, figures and claims as originally filed. For example, support for the amendment to claim 5 can be found in, e.g., paragraphs 19 and 71. Support for the amendment to claim 11 can be found in, e.g., paragraph 70 (e.g., lines 5-7) and paragraph 19. Support for the amendment to claim 14 can be found in, e.g., paragraphs 122 and 19. Support for the amendments to claim 32 can be found in, e.g., paragraphs 70 and 19. No new matter is added.

III. Discussion with Examiner

Applicants thank the Examiner for answering Applicant's questions regarding the Office Action. In particular, the Examiner stated that claims 2-3 should not have been rejected under the 35 U.S.C. § 112, first paragraph rejection. The Examiner further stated that claim 4 was deemed allowable.

IV. Rejection under 35 U.S.C. § 112, first paragraph

The Office Action states that claims 1-3, 5-6, 11-17, and 32-40 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement. According to the Office Action, the claims were rejected for reciting "at least 70% identity" or for including hybridization language. As discussed above, the Examiner has acknowledged that claims 2-3 should not have been rejected.

While Applicants disagree with the rejection, to expedite prosecution, the claims have been amended to no longer include "at least 70% identity" or hybridization language. The nucleic acids in the claims now include the previously-acknowledged allowable claim scope of claims 2 or 4. Accordingly, withdrawal of the rejection is respectfully requested.

V. Rejection under 35 U.S.C. § 102

A. Drmanac et al.

Claims 6 and 14-17 were rejected as allegedly anticipated by Drmanac under 35 U.S.C. §102(b).

Claim 6 is canceled, thereby rejection of that claim moot. Claim 14, as amended, now recites the claim scope of claim 4 (which was not rejected). Claims 15-17 depend from claim 14. Therefore, withdrawal of the rejection is respectfully requested.

B. Carnici et al

Claims 6 was rejected as allegedly anticipated by Carnici under 35 U.S.C. §102(b). Claim 6 is canceled, thereby rejection of that claim moot. Moreover, Applicants note that there does not appear to be a sequence provided in Carnici, contrary to the Examiner's assertion.

VI. Rejection under 35 U.S.C. § 103

Claims 14-17 were rejected as allegedly obvious in view of Carnici and Drmanac.

Claim 14, as amended, now recites the claim scope of claim 4 (which was not rejected). Claims 15-17 depend from claim 14. Therefore, withdrawal of the rejection is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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